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d/b/a Metropolitan Collection Agency

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELIZABETH MORATH,

Plaintiff,

-vs-

**DECLARATION OF RICHARD
GOLDMAN IN SUPPORT OF
MOTION TO TRANSFER
VENUE AND IN OPPOSITION
TO PLAINTIFF'S MOTION
FOR JUDGMENT**

Case No. 07-CV-11081

METROPOLITAN RECOVERY SERVICES, INC.,
d/b/a METROPOLITAN COLLECTION AGENCY,

Defendant.

RICHARD GOLDMAN, of full age, being duly sworn, deposes and says:

1. I am the President and owner of the Defendant Metropolitan Recovery Services, Inc., d/b/a Metropolitan Collection Agency ("Defendant" or "Metro"). I am fully familiar with the facts and circumstances contained herein. The knowledge is personal unless indicated otherwise.

2. This affidavit is submitted in support of Defendant Metro's Motion to Transfer Venue to the Western District of New York and in opposition of Plaintiff's subsequently filed Cross-Motion for Judgment.

3. Metro is an exclusive two-person collection agency located at 2541 Monroe Avenue, Rochester, New York in the Western District of New York.

4. Metro's collection practice is exclusively limited to written collection letters directed to debtors located in the Western District of New York, primarily in Rochester, New York.

5. Upon my review of the Complaint, I was surprised to find the venue to be the Southern District of New York. What disturbed me the most about the pleadings is that the parties and subject matter of the Federal Debt Collection Practices Act ("FDCPA") proceeding involve the Rochester, New York area, not anywhere near the domain of the Southern District of New York. In fact, the only contact to the Southern District of New York is Plaintiff's counsel's offices. Even Elizabeth Morath is from Victor, New York which is located within the confines of the Western District of New York. Moreover, the subject collection letters at issue were drafted, executed, sent and delivered in this area, not the Southern District of New York. To litigate this matter in the Southern District of New York would not only be financial and physical strain on me – it would also inconvenience the Plaintiff as well. All the witnesses, records and events occurred in the Western District of New York. Plaintiff's counsel's residence of the Southern District of New York benefits only one person – Plaintiff's counsel. I respectfully request that this action be transferred to the Western

District of New York for all further proceedings including any motions for summary judgment.

6. Upon review of the Plaintiff's Complaint, I also identified a fatal flaw in Plaintiff's documentation with respect to the most critical document in this case – Metro's alleged initial October 17, 2007 debt validation letter which was cut in half to delete the appropriate FDCPA disclosures. Before this Court can assess the merits of this particular document, additional discovery will be required with respect to this critical documentation. Accordingly, Plaintiff's subsequently filed cross-motion for judgment should be denied in its entirety.

/s/: Richard S. Goldman
Richard S. Goldman
President
METROPOLITAN RECOVERY
SERVICES, INC., d/b/a METROPOLITAN
COLLECTION AGENCY

Sworn to before me this
28th day of March, 2008

/s/: Charleen M. Bektas
Notary Public

Commission Expires February, 2011

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELIZABETH MORATH,

Plaintiff,

-vs-

METROPOLITAN RECOVERY SERVICE, INC.,
d/b/a METROPOLITAN COLLECTION AGENCY,

Case No. 07-CV-11081

Defendant.

STATE OF NEW YORK)
COUNTY OF MONROE)

AFFIDAVIT OF SERVICE

I, Gregory J. Gillette, being sworn say:

I am not a party to this action, am over 18 years of age and reside at Rochester, New York.

On March 28, 2008, I served the **DECLARATION OF RICHARD GOLDMAN IN SUPPORT OF DEFENDANT'S MOTION TO CHANGE VENUE AND IN OPPOSITION TO PLAINTIFF'S CROSS-MOTION FOR JUDGMENT** by depositing a true copy thereof, enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of United States Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name (see attached list):

/s/: Gregory J. Gillette
GREGORY J. GILLETTE

Sworn to before me this
28th day of March, 2008.

/s/: Glenn M. Fjermedal
Notary Public

Amir J. Goldstein, Esq.
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New York, New York 10012